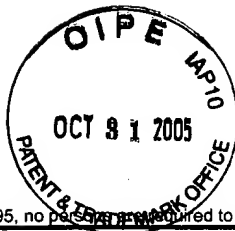


Doc Code: AP.PRE.REQ



PTO/SB/33 (07-05)

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**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Docket Number (Optional)

CHMP-102D

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

on October 27, 2005

Signature

Typed or printed name Paulette A. Fritz

Application Number

09/939,405

Filed

August 27, 2003

First Named Inventor

Kenneth A. Pieroni

Art Unit

2856

Examiner

Charles D. Garber

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐

applicant/inventor.

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.  
(Form PTO/SB/96)

☒

attorney or agent of record.

26881

Registration number

☐

attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34

Signature

Morland C. Fischer

Typed or printed name

(949) 476-0600

Telephone number

October 27, 2005

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below\*.

☐

\*Total of \_\_\_\_\_ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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**CERTIFICATE OF MAILING**

I, Paulette A. Fritz, do hereby certify that the foregoing documents are being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to Box: AF, Commissioner for Patents, P. O. Box 1450 Alexandria, VA 22313-1450 on this date of October 27, 2005.

Name Printed: Paulette A. Fritz

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Date of Deposit: October 27, 2005

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JFW



Docket No. CHMP-102D

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Kenneth A. Pieroni, et al. )

Serial No.: 09/939,405 )

Filing Date: August 27, 2003 )

Title: SMOKE AND CLEAN AIR )  
GENERATING MACHINE FOR )  
DETECTING THE PRESENCE )  
OF LEAKS IN A FLUID SYSTEM )

Examining Attorney:  
Charles D. Garber

Group Art Unit: 2856

**ARGUMENTS IN SUPPORT OF PRE-APPEAL BRIEF**  
**REQUEST FOR REVIEW**

Box: AF  
Assistant Commissioner of Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

This pre-appeal brief review is requested inasmuch as it is submitted that the Final Rejection of Claims 29 and 32-34 has been based on a clear factual deficiency. In general terms, it appears that the Examiner's Final Rejection dated July 27, 2005 has totally ignored and/or failed to address the Remarks in the applicant's Amendment filed July 15, 2005. In particular, the primary reference to Westervelt, et al. (3,872,712) is believed to be an inapplicable teaching, because the flow meter of Westervelt, et al. is used only during calibration and prior to testing but not during a testing step as it is otherwise required by the applicant's method to determine the presence of leaks in a system under test as recited in Independent Claim 29 (the sole independent claim under appeal). Thus, it is believed that Independent Claim 29 and Claims 32-34, which